IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 29564 of 2007(T)

PETITIONER:

HARSHAD,AGED 27 YEARS,
S/O.ABDUL RASHEED,KULANGARA HOUSE,KUDILIL ROAD,
NEAR RAJAGIRI SCHOOL,ERNAKULAM.

BY ADV. SRI.K.N.ABHILASH

RESPONDENTS:

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1. HSBC LTD.REPRESENTED BY ITS AUTHORISED
OFFICER, (UNDER CENTRAL ACT 2054/2002)
PULICKAL ESTATE, M.G.ROAD,COCHIN-16.

2. DISTRICT COLLECTOR,
ERNAKULAM.

R1 BY ADV. SRI.KKM.SHERIF
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL
SRI.V.R.REKESH
R2 BY G.P. SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE PHOTOCOPY OF SAID NOTICE DT.25.9.2006 ISSUED BY AUTHORISED OFFICER IN FAVOUR OF THE PETITIONER.

P2: TRUE PHOTOCOPY OF THE OBJECTION DT.28.7.2007 ISSUED BY PETITIONER TO THE RESPONDENT.

P3: TRUE COPY OF NOTICE OF POSSESSION THUS ISSUED BY RESPONDENT DT.27.9.2007 AGAINST THE PETITIONER.

RESPONDENT'S EXHIBITS:

R1(a): TRUE COPY OF THE POSTAL COVER SENT TO THE PETITIONER WITH POSTAL ENDORSEMENT.

TRUE COPY

P.A. TO JUDGE

ANTONY DOMINIC, J.

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W.P.(C) No.29564 of 2007

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Dated this the 6th day of November, 2007.

JUDGMENT

Though the challenge in this W.P. is against the proceedings initiated against the petitioner under the SARFAESI Act, the only relief that is pressed before me is for an instalment facility to discharge the liabilities so that the petitioner can avoid distress action against the mortgaged properties. I heard counsel for the first respondent who points out that the total amount due from the petitioner is more than Rs.50 lakhs as at present and therefore, the petitioner should be called upon to make a substantial payment.

2. Having heard the submissions made by both sides and considering the fact that the petitioner is making only a limited prayer for instalment facility, I dispose of this W.P. with the direction that the petitioner shall discharge his entire liabilities due to the first respondent in eight equal monthly instalments commencing from first of December, 2007. The subsequent instalments will be payable on the first of every succeeding month. Subject to the above, further proceedings against the petitioner under the SARFAESI Act shall be deferred and if the petitioner commits

default in paying any one of the instalments, the respondents will be free to proceed further without any other notice.

ANTONY DOMINIC
Judge

pms